

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE)	PDC CASE NO: 02-282
WITH RCW 42.17)	
)	PRELIMINARY
NATIONAL EDUCATION ASSN.,)	REPORT OF INVESTIGATION
)	
Respondent.)	
_____)	

I.
BACKGROUND

- 1.1 On January 31, 2002, the Evergreen Freedom Foundation, Lowell Johnson, Carrie Riplinger, Susan Kobes and David Williams, through attorney Jeanne Brown filed a citizen's action in accordance with RCW 42.17.400 with the Office of the Attorney General and the State of Washington's County Prosecutors' Offices. Ms. Brown provided the PDC with a courtesy copy of the complaint. The complaint alleged:
- (1) violations of RCW 42.17.040 et. seq and RCW 42.17.680(3) by the National Education Association's Ballot Measure/Legislative Crisis and Media Campaign Fund (Ballot/Media Fund) for (a) failing to register as a political committee and for (b) diverting a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions without the written request of the employee; and
 - (2) violations of RCW 42.17.760 by the NEA for using agency shop fees paid by non members to make contributions or expenditures from (a) the general fund and (b) the Ballot/Media Fund to influence an election or to operate a political committee, without written authorization by the individual.
- 1.2 On February 6, 2002, the Office of the Attorney General officially notified the PDC that they were referring the matter to the PDC for investigation.

II.
SCOPE

- 2.1 Staff reviewed the following documents from the complainant:

- 1) Complaint letter dated January 31, 2002.
 - 2) Attached EXHIBIT A - Text of NEA Bylaw 2-7n.
 - 3) Attached EXHIBIT B - *RA Today*, Wednesday July 5, 2000
 - 4) Attached EXHIBIT C - *Proposed Amendments to the Constitution Bylaws and Standing Rules*, RA Online, July 7, 2000
(<http://www.nea.org/ra/ra00/amndmnts.html>).
 - 5) Attached EXHIBIT D- *NEA Today Online*, September 2000
(<http://www.nea.org/neatoday/0009/neara.html>).
 - 6) Attached EXHIBIT E – *NEA Raising Dues to Combat Vouchers*, Washington Times, July 7, 2000.
 - 7) Attached EXHIBIT F – *Agreement*, Between The National Education Association and the Washington Education Association.
 - 8) Attached EXHIBIT G – *Memorandum, Report to Delegates* (from the 2001 NEA Representative Assembly on the Ballot Measure/Legislative Crisis Fund), May 2001.
 - 9) Attached EXHIBIT H – PDC reports (1) Cash Receipt report (PDC form C-3) filed by Citizens for Quality Educations, filed on July 21, 2001; (2) C-3 form filed by Citizens for Quality Educations on September 29, 2000; (3) Lobbyist Employer report (PDC form L-3) filed by the NEA on February 28, 2001.
 - 10) Attached EXHIBIT I – *Washington State Public Disclosure Commission v. Washington Education Association*, July 31, 2001, Findings of Fact and Conclusions of Law, Thurston County Cause No. 00-2-01837-9.
 - 11) Attached EXHIBIT J – NEA Hudson Packet excerpts from 1997 – 2001.
 - 12) Attached EXHIBIT K – Check Stub, January 15, 2002.
 - 13) Second letter dated February 11, 2002 from Jeanne Brown.
 - 14) Copy of Washington State teacher's pay stub from pay period 08/01/01 – 09/30/01.
 - 15) Complete copy of the 2001-2002 WEA Hudson Notice.
 - 16) Full sized, selected excerpts from NEA Hudson Notice, 1997-2001.
 - 17) Third letter dated February 27, 2002 from Jeanne Brown
- 2.2 Staff reviewed the letter of response from the National Education Association filed by Richard B. Wilkof, General Counsel, received March 15, 2002 including:
- 1) NEA Bylaws
 - 2) Declaration of Wayne S. Diviney, Chief Financial Officer
 - 3) Voucher Number 00272423 dated February 11, 2002
 - 4) WEA Invoice for Account Nbr. 1426 WAEA
- 2.3 Staff reviewed the second letter of response from the National Education Association filed by Richard B. Wilkof, General Counsel, received March 27, 2002 including.
- 1) Updated declaration of Wayne S. Diviney, Chief Financial Officer.
- 2.4 Richard B. Wilkof, of the NEA's Office of General Counsel was called, but no formal interview was conducted.

- 2.5 PDC staff reviewed the National Education Association's lobbyist reports (PDC form L-2, L-3 and L-3C).

III.
LAW

- 3.1 **RCW 42.17.020(33)** states "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.
- 3.2 **RCW 42.17.040** requires that a political committee, within two weeks after its organization, file a statement of organization with the commission and with the county in the county in which the treasurer resides.
- 3.3 **RCW 42.17.080 and .090** require political committees to file reports of contributions and expenditures. The reports must be timely, complete, and accurate. A PDC form C-3 must be completed for each bank deposit, and must be filed monthly, except for the four months preceding the election when a C-3 must be filed weekly. A PDC form C-4, summarizing contributions and expenditures, must be filed monthly, except for special reports due 21 and 7 days before each election.
- 3.4 **RCW 42.17.170 (1)** requires a lobbyist registered under RCW 42.17.150 to file monthly reports containing totals of all expenditures for lobbying activities made or incurred by such lobbyist or on behalf of such lobbyist by the lobbyist's employer during the period covered by the report.
- 3.5 **RCW 42.17.180 (1)(d)** requires lobbyist employers to file reports disclosing, in part, for the preceding calendar year all contributions made to a political committee supporting or opposing a statewide ballot proposition.
- 3.6 **RCW 42.17.680 (3)** requires an employer or entity responsible for the disbursement of funds in payment of wages or salaries that withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions to have the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The request is valid for no more than twelve months from the date it is made by the employee.
- 3.7 **RCW 42.17.760** states that a labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual.

IV.

FINDINGS

Background

4.1 On January 31, 2002, the Evergreen Freedom Foundation, Lowell Johnson, Carrie Riplinger, Susan Kobes and David Williams, through attorney Jeanne Brown filed a citizen's action in accordance with RCW 42.17.400 with the Office of the Attorney General and the State of Washington's County Prosecutors' Offices. **(Exhibit 1)** The complaint alleged:

- (1) violations of RCW 42.17.040 et. seq and RCW 42.17.680(3) by the National Education Association's Ballot Measure/Legislative Crisis and Media Campaign Fund (Ballot/Media Fund) for (a) failing to register as a political committee and for (b) diverting a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions without the written request of the employee; and
- (2) violations of RCW 42.17.760 by the NEA for using agency shop fees paid by non members to make contributions or expenditures from (a) the general fund and (b) the Ballot/Media Fund to influence an election or to operate a political committee, without written authorizations by the individual.

4.2 The National Education Association (NEA) is an organization dedicated to advancing the cause of public education. The NEA has more than 2.5 million members who work in education, from pre-school to university graduate programs. The NEA has affiliates in every state as well as in over 13,000 local communities across the United States. Its members set Association policy, in part through an annual Representative Assembly (RA), held every July.

4.3 From 1997 through 2001, the NEA made the following contributions to Washington State initiative committees:

<u>Year</u>	<u>Date</u>	<u>NEA Fiscal Yr.¹</u>	<u>Amount</u>	<u>Recipient</u>	<u>Initiative</u>
1997	--		--	--	--
1998	10/08/98	1998-99	\$15,000	Paycheck Protection	688
	10/08/98	1998-99	\$15,000	No On Initiative 200	200
1999	--		--	--	--
2000	07/14/00	1999-00	\$50,000	Cit For Quality Educators	732
	09/22/00	2000-01	\$450,000	Cit For Quality Educators	732
2001	--		--	--	--
Total			\$530,000		

4.4 The NEA's contributions to initiative committees were timely reported on lobbyist reports. On November 10, 1998, the NEA timely filed a lobbyist employer, monthly political contribution report (PDC form L-3C) reporting the \$15,000 contribution to Paycheck Protection and the \$15,000 contribution to the No On Initiative 200 committee. **(Exhibit 2)** On August 15 and October 16, 2000, James Seibert timely

¹ The NEA fiscal year covers the period September 1 through August 31.

filed lobbying expense reports (PDC form L-2) documenting the \$50,000 and \$450,000 monetary contributions to Citizens for Quality Educators, a committee supporting Initiative 732. On February 28, 2001, the NEA timely filed a lobbyist employer report (PDC form L-3) summarizing the \$500,000 in contributions. **(Exhibit 2)**

Related Case - Thurston Superior Court Cause #00-2-01837-9, PDC vs. WEA

- 4.5 On August 15, 2000, the PDC received a complaint from the Evergreen Freedom Foundation and public school employees alleging that the WEA and Washington School Districts were in violation of RCW 42.17.680 and 42.17.760. The complaint alleged that Washington School Districts were in violation of RCW 42.17.680 by withholding dues and fees from employees' wages that were used by the WEA and the NEA for contributions to political campaigns. The complaint also alleged that the WEA violated RCW 42.17.760 by using agency shop fees for political contributions and expenditures without the affirmative authorization of non-members. The Commission accepted a Stipulation of Facts, Violations and Recommendations, and found that the Respondent committed apparent violations of RCW 42.17.760, and referred the matter to the Attorney General's Office. The Attorney General's Office filed an action in Thurston County Superior Court against the WEA.
- 4.6 On July 31, 2001, Judge Gary Tabor issued a letter of opinion regarding Thurston County Superior Court Cause #00-2-01837-9, PDC vs. WEA, after presiding over a trial held May 14 through May 15, 2001. **(Exhibit 4)** The trial focused on the collection of fees from non-members called "fee payers" for five fiscal years (1995/1996 through 1999/2000). The "fee payers" pay fees equal the amount of members unless they seek a refund by filing a Hudson Notice or filing an objection. Those who object or file a Hudson Notice receive a refund based on a formula that determines the amount of dues not chargeable to collective bargaining. Those that object receive a refund based on an arbitrator's decision.

The PDC claimed that portions of these agency fees were used for political purposes, in violation of RCW 42.17.760. The WEA claimed that the amounts paid by fee payers were offset by its reserves and that the amounts received from agency fee payers was a small percentage of dues collected, and that amounts expended for political purposes was a small percentage of the WEA's overall budget. Unless an agency fee payer objected, their fees were placed into the general fund and were spent as the WEA saw fit. WEA stated that even if agency fees were separated, they would come into the general fund as surplus at the end of the year. **(Exhibit 4)**

- 4.7 In the July 31, 2001 letter of opinion, Judge Tabor found that the WEA had used agency fees without affirmative authorization in violation of RCW 42.17.760 and assessed penalties. **(Exhibit 4)** He stated that *any distinction between collecting an agency fee [on the revenue side] and expending monies for a particular purpose [on the expense side] are forever obscured when the funds collected are commingled into the general fund.* Judge Tabor determined that agency fees are used in this

scenario and they are collected without affirmative authorization to do so. Judge Tabor assessed a \$25 penalty per agency fee payer per fiscal year for a total of \$200,000². The court found an intentional violation and doubled the civil penalty and added costs for the investigation and trial.

- 4.8 On December 3, 2001, Judge Tabor issued a permanent injunction that, in part, required WEA to issue an 8 percent refund of agency fees charged during fiscal years 2001-2002 and 2002-2003, and to reduce future agency fees chargeable to non-members due to activities covered by RCW 42.17.760. **(Exhibit 5)**
- 4.9 On March 1, 2002, the PDC received a statement from Aimee S. Iverson, Assistant General Counsel for the WEA. **(Exhibit 6)** Ms. Iverson stated that the WEA had rebated on behalf of the NEA, UniServ Councils, and Local Education Associations, an amount equal to 8 percent of the entire amount of agency fees paid by agency fee payers for the 2001-2002 fiscal year. The rebate covers agency fees paid to the NEA, UniServ Councils, Local Education Associations, as well as the WEA. Ms. Iverson stated that the WEA intends to continue this practice of rebating agency fees in the next fiscal year and to continue reducing the amount of agency fees collected in future years on behalf of NEA, UniServ Councils, Local Education Associations and the WEA. On March 20, 2002, Ms. Iverson stated that beginning in September of 2000, agency fee payer dues were escrowed until December 17, 2001, at which time 70 percent were released to the WEA's general fund, and the remaining 30 percent were held in escrow. Ms. Iverson stated that none of the monies released from escrow have been transmitted to the NEA. **(Exhibit 6)**

Allegation 1a: That the Ballot Measure/Legislative Crises and Media Campaign Fund is an Unregistered Political Committee

- 4.10 In May, 2001 Bob Chase, President of the NEA, released an annual report on the Ballot Measure/Legislative Crises and Media Campaign Fund. **(Exhibit 1, pp. 12-15)** The report documents that \$450,000 from the fund and an additional \$50,000 was allocated to Washington State for Initiatives 728 and 732. In a telephone inquiry with PDC staff on March 15, 2002, Richard B. Wilkof, of the NEA's Office of General Counsel, clarified that the NEA made these contributions directly to Citizens for Quality Educators.
- 4.11 On January 31, 2002, the Evergreen Freedom Foundation filed a citizen's action in accordance with RCW 42.17.400 with the Office of the Attorney General and the State of Washington's County Prosecutors' Offices. **(Exhibit 1)** The complaint alleged in part that an amendment to NEA's bylaws created a political committee, the Ballot Measure/Legislative Crises and Media Campaign Fund, in Washington State, that did not register, but collected contributions and made expenditures, in violation of RCW 42.17.040. Political committees are entities having the

² There were 4,194 agency fee payers in 1999/2000. WEA argued this number was over-inclusive, so plaintiff reduced the number to 3,200 per year, totaling 16,000 for five fiscal years. Plaintiff cuts the figure in half [8,000] and asked for a penalty of \$25 for each.

expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

- 4.12 At the 138th NEA Annual Meeting, the Representative Assembly passed bylaw Amendment 2 on July 5, 2000, which became effective on September 1, 2000 following its adoption. **(Exhibit 7)** The bylaw amendment created the Ballot Measure/Legislative Crises and Media Campaign Fund and established a five-dollar increase to member dues to fund it, of which 60% would finance ballot measure and legislative activities and 40% would support media campaigns. **(Exhibit 7)** The NEA created segregated accounts for the Ballot Measure/Legislative Crises component and the Media Campaign component of the fund. **(Exhibit 7, page 2)** The Ballot Measure/Legislative Crises account was designed to assist state affiliates in dealing with ballot measures and legislative crises within their respective states. The Media Campaign account was designed to be used for national and state media campaigns to advance the cause of public education and to publicize the role of the NEA and its affiliates in improving the quality of public education.
- 4.13 The bylaw also established the opportunity for state affiliates to opt out of funding ballot measures if state law did not allow this activity. The WEA opted out of funding ballot measures through an agreement with the NEA, and funded only the Media Campaign component of the fund. **(Exhibit 1, pp. 8-10)** The five-dollar increase from Washington State members went into the segregated Media Campaign Fund, which was not used to make political contributions. It was not solicited for political purposes. **(Exhibit 7, page 2)** Therefore, in accordance with RCW 42.17.040, there is no requirement for the Media Campaign Fund component of the fund to register as a political committee in Washington State.
- 4.14 As previously described, the NEA's contributions to the Citizens for Quality Educators were properly reported on monthly L-2 reports filed by James Seibert, and on NEA's annual lobbyist employer report filed on February 28, 2001. **(Exhibit 2)**
- 4.15 Mr. Wilkof stated that at the time of the NEA's and the WEA's written agreement, the NEA *"had not yet developed the specific mechanics for setting up the accounts for the monies collected pursuant to the special dues increase."* **(Exhibit 7, page 3)** According to Mr. Wilkof, those mechanics were addressed on October 13, 2000. Wayne S. Diviney, NEA's Chief Financial Officer, in a declaration dated March 15, 2002, stated, *"NEA accounting deposited both the regular dues and the special dues increase into NEA's general treasury, and then allocated all \$5.00 of the special dues increase from WEA members into the Media Campaign Fund."* **(Exhibit 7)** Given that a Washington State initiative committee received \$500,000 in July and September of 2000, prior to the Ballot Measure/Legislative Crises fund having its own account, it appears that NEA general treasury monies were used to make these political contributions. Thus, the Ballot Measure/Legislative Crises component of the fund did not make political contributions in Washington State. It, therefore, was not required to register as a political committee in Washington State.

Allegation 1b: That School Districts Diverted Employees' Wages To The Ballot Measure/Legislative Crises And Media Campaign Fund For Political Purposes And Failed To Have Written Authorization In Accordance With RCW 42.17.680(3).

- 4.16 The Evergreen Freedom Foundation's citizen's action alleged in part that an amendment to NEA's bylaws created a political committee, the Ballot Measure/Legislative Crises and Media Campaign Fund, which collected contributions and made political contributions. In order for the school districts to deduct a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions, the school districts are required to have the written request of the employee, in accordance with RCW 42.17.680.
- 4.17 The NEA does not employ school district employees, nor does the NEA administer payroll deductions for the school districts. Therefore, the is not responsible for whether school districts obtain the written request of the employee, in accordance with RCW 42.17.680, to deduct an employee's wages or salaries for contributions to political committees or for use as political contributions.
- 4.18 However, as previously detailed, monies collected for the special assessment in Washington State by the WEA for the NEA were deposited into a segregated Media Campaign Fund, consistent with the August 2, 2000 agreement with the WEA. **(Exhibit 1, pp. 8-10)** As such, the special assessment purpose in Washington State is to make expenditures on media campaigns, not to make contributions towards ballot measures or candidate committees. In accordance with RCW 42.17.680(3), employers that withhold for contributions to political committees or for use as political contributions must have the written request of the employee on an annual basis. Given that the Media Campaign Fund does not make political contributions, a written request is not required for amounts withheld for that fund. The dues withheld are not for contributions to political committees or for use as political contributions.

Allegation 2a: That The NEA, Through Its General Treasury Fund, Used Agency Shop Fees For Political Purposes Without Affirmative Authorization In Accordance With RCW 42.17.760.

- 4.19 The Evergreen Freedom Foundation's citizen's action alleged in part that the NEA collected nonmember dues and made political contributions without the affirmative authorization of the individual nonmember. In accordance with RCW 42.17.760, a labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual.
- 4.20 The NEA, through the WEA, gives annual notice to agency fee payers which explains WEA's authority for charging an agency fee, provides a partial list of the services received by the agency fee payer, and sets forth the agency fee amounts for the school year in which the notice is sent. **(Exhibit 3)** Attached to this annual notice (hereafter the Hudson notice) is a description of each activity chargeable and

not chargeable to collective bargaining. The Hudson notice advises agency fee payers that they are entitled to a refund if they do not want their agency fees used for nonchargeable activities. The Hudson notice includes the amount to be refunded, which the WEA calculates based on two-year old financial data and information.

(Exhibit 3) The Hudson notice is generally mailed to agency fee payers shortly after the beginning of each school year. The WEA relies on its UniServ councils and local education association presidents to identify agency fee payers and to notify the WEA of address changes. **(Exhibit 3)** A second Hudson notice is mailed shortly after the start of the new calendar year to new employees and those agency fee payers whose identity was discovered after the first mailing.

4.21 Mr. Diviney stated that the NEA receives member and non-member dues from the WEA through the school districts. The school district either transmits the entire amount to a local association or UniServ Council, which takes its share and forwards the remainder to NEA, or the NEA, through a third party administration distributes WEA dues to WEA, NEA dues to NEA, the UniServ Council dues to the council, and the local association dues to the local association. **(Exhibit 7, paragraph 5)**

4.22 In 1998, the NEA made two \$15,000 contributions to two Washington State initiative committees from general treasury funds. Given that agency fee payer dues are transmitted in the same fashion as member dues, and were not segregated from the general treasury, agency fee payers' dues would have been included in the general fund. According to evidence gathered in PDC Case No. 01-002 (Respondent WEA), in 1998, there were 3,811 nonmember fee payers who did not file affirmative authorization for use of their fees to make contributions by the NEA. Therefore, during fiscal year 1998-1999, the NEA used agency shop fees paid by 3,811 nonmembers to make contributions to a political committee, without having affirmative authorization by the individual, nonmember fee payer.

Allegation 2b: That The Ballot Measure/Legislative Crises And Media Campaign Fund Used Agency Shop Fees For Political Purposes Without Written Authorization In Accordance With RCW 42.17.760.

4.23 The Evergreen Freedom Foundation's citizen's action alleged in part that the NEA collected a five-dollar increase, beginning September 1, 2000 (fiscal year 2000-01) to nonmember dues and made political contributions through the Ballot Measure/Legislative Crises and Media Campaign Fund without the affirmative authorization of the individual fee payers. In accordance with RCW 42.17.760, a labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual.

4.24 As previously described, the Hudson notice advises agency fee payers that they are entitled to a refund if they do not want their agency fees used for activities not chargeable to collective bargaining. **(Exhibit 3)** Ms. Iverson stated that the NEA, through the WEA, received agency fees from 3,650 individuals during fiscal year

2000-01. The WEA made refunds to 281 objectors or challengers during fiscal year 2000-01. The WEA used agency fees paid by 3,369 individuals to make expenditures for nonchargeable activities during fiscal year 2000-01. **(Exhibit 6)** According to evidence gathered in PDC Case No. 01-002 (Respondent WEA), the NEA, through the WEA, received agency fees from 4,407 individuals during fiscal year 1999-00. The WEA made refunds to 213 objectors or challengers during fiscal year 1999-00. The WEA used agency fees paid by 4,194 individuals to make expenditures for nonchargeable activities during fiscal year 1999-00.

4.25 In 2000, although the NEA created two segregated accounts for the Ballot Measure/Legislative Crises and the Media Campaign Fund and collected a five-dollar increase from Washington State nonmembers for Media Campaign component of the fund, it appears the NEA made two contributions on July 14 and September 22, 2000 totaling \$500,000 to the Citizens for Quality Educators from their general fund treasury. According to Mr. Diviney, the NEA deposited both the regular dues and the special dues increase into the general treasury, and then allocated all \$5.00 of the special dues increase from WEA members into the Media Campaign Fund. **(Exhibit 7, paragraph 7)** Mr. Diviney stated *“many of the disbursements by NEA in connection with ballot measure campaigns were made before all the special dues increases had been collected. Most of the disbursements were made even before the Ballot Measure/Legislative Crisis Fund bank account was set up in October 2000. In those cases, disbursements were made out of the NEA general treasury fund, with the understanding that it would be reimbursed out of subsequent dues collections. The general treasury fund was augmented at that time with an advance from NEA’s line of credit with a commercial bank. The advance was repaid against the line of credit as NEA received dues payments, including the special dues increase, during the normal course of business. (Exhibit 7, paragraph 8)*

4.26 Ms. Iverson stated that all agency fees collected from agency fee payers during the 2000-01 fiscal year were kept in escrow from September 2000 until December 2001. **(Exhibit 6)** In accordance with the injunction issued by Judge Tabor in PDC v. WEA, No. 00-2-0137-9, 70 percent of agency fees collected during the 2000-01 fiscal year were released from escrow on December 17, 2001. The remaining 30 percent of agency fees collected are still held in escrow. Ms. Iverson stated that the 70 percent of 2000-01 agency fee payer dues was deposited to the WEA general treasury. **(Exhibit 6)** Therefore, the NEA used agency shop fees paid by 4,194 nonmembers in fiscal year 1999-00 to make a \$50,000 contribution, without having affirmative authorization by the individual fee payer.

4.27 Wayne S. Diviney, NEA’s Chief Financial Officer, in his declaration dated March 15, 2002, stated, *“at the end of fiscal year 2000-01 (i.e. August 31, 2001), the Media Campaign Fund had a receivable of \$625,082 from the NEA general fund for dues yet to be collected from state affiliates. (Exhibit 8, paragraph 11) For fiscal year 2000-01, NEA allocated a total of \$9,343,275 to its Ballot Measure/Legislative Crisis Fund. The sources for this money were \$4,996,725 from the special funds increase (excluding any funds from WEA), a total of \$2,351,550 in funds originally*

allocated for ballot measures and legislative crisis assistance and for contingency reserves before the special dues increase was approved by the 2000 RA, and \$2,000,000 in funds accrued from the 1999-00 budget. (Exhibit 8, paragraph 12) During fiscal year 2000-01, NEA's expenditures from its Ballot Measure/Legislative Crisis Fund exceeded the amount allocated by a total of \$620,732. The deficit was made up with funds from the NEA's general treasury." (Exhibit 8, paragraph 13)

4.28 Therefore, the NEA used agency shop fees paid by nonmembers to make contributions to a political committee, without having affirmative authorization by the individual fee payers as shown below:

Source	Number of Agency Fee Payers per Fiscal Yr.	Funded	Made WA State Political Contribution to:
\$30,000 in 1998-99 general funds	3,811 in 1998-99		\$15,000 to Paycheck Protection on 10/8/98 \$15,000 to No On Initiative 200 on 10/08/98
\$2,000,000 in funds accrued from the 1999-00 budget	4,194 in 1999-00	Ballot Measure/Legislative Crisis Fund	
\$616,086 from the NEA's general treasury.	3,369 in 2000-01 ³	Ballot Measure/Legislative Crisis Fund	
\$2,351,550 in funds originally allocated for ballot measures and legislative crisis assistance and for contingency reserves before the special dues increase was approved by the 2000 RA	Fiscal year unknown.	Ballot Measure/Legislative Crisis Fund	
Source	Number of Agency Fee Payers per Fiscal Yr.	Funded	Made WA State Political Contribution to:
\$50,000 from NEA's general fund from fiscal year 2000.	4,194 in 1999-00		\$50, 000 to Cit for Quality Educators on 7/14/00
\$450,000 from NEA's general fund from fiscal year 2001.	3,369 in 2000-01 ⁴		\$450,000 to Cit for Quality Educators on 9/22/00

³ Beginning in September of 2000, agency fee payer dues were escrowed until December 17, 2001, at which time 70 percent were released to the WEA's general fund, and the remaining 30 percent were held in escrow.

Respectfully submitted this 27th day of March, 2002.

Suemary Trobaugh
Sr. Political Finance Specialist

EXHIBITS LIST

Exhibit 1 Letter of citizen's action filed on January 31, 2002, by the Evergreen Freedom Foundation, Lowell Johnson, Carrie Riplinger, Susan Kobes and David Williams, through general counsel Jeanne Brown.

Attachment F The Agreement Between the National Education Association and the Washington Education Association

Attachment G NEA annual report on Ballot Measure/Legislative Crises and Media Campaign Fund released May, 2001 by Bob Chase, President of the NEA.

Exhibit 2 Lobbyist employer, monthly political contribution report (PDC form L-3C) filed on November 10, 1998. Lobbying expense reports (PDC form L-2) filed on August 15 and October 16, 2000. Lobbyist employer report (PDC form L-3) filed on February 28, 2001.

Exhibit 3 Hudson notice mailed by the WEA to agency fee payers on February 7, 2001 (does not include specific information about the NEA, UniServ Council and Local Association which is not relevant to this investigation)

Exhibit 4 Letter of opinion regarding Thurston Superior Court Cause #00-2-01837-9, PDC vs. WEA On July 31, 2001, issued by Judge Gary Tabor.

Exhibit 5 Permanent injunction issued on December 3, 2001, by Judge Tabor.

Exhibit 6 Statements filed by Aimee S. Iverson Assistant General Counsel for the WEA on March 1, 2002, March 20, 2002, April 2, 2002.

⁴ Beginning in September of 2000, agency fee payer dues were escrowed until December 17, 2001, at which time 70 percent were released to the WEA's general fund, and the remaining 30 percent were held in escrow.

- Exhibit 7** Letter of Response filed by Richard B. Wilkof, NEA General Counsel on March 15, 2002, with attached declaration of Wayne Diviney.
- Exhibit 8** Second letter of Response filed by Richard B. Wilkof, NEA General Counsel on March 27, 2002, with attached revised declaration of Wayne Diviney.